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Environment and Natural Resources Division
United States Department of Justice

Attorneys for the United States

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125-RCJ
)	Subproceedings: C-125-B
Plaintiff,)	3:73-CV-00127-RCJ-WGC
)	
WALKER RIVER PAIUTE TRIBE,)	
)	UNITED STATES OF AMERICA’S
Plaintiff-Intervenor,)	RESPONSE TO SUGGESTION OF
vs.)	DEATH UPON THE RECORD UNDER
)	FRCP 25(a)(1)
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
)	

The United States having reviewed the *Suggestion of Death Upon the Record Under FRCP 25(A)(1)* (Doc. 2266) (Suggestion of Death), hereby responds. For the reasons stated below, the request that all action against defendant be dismissed should not be granted unless and

until Defendant's successor in interest is identified and the proper party has been substituted in Defendant's place.

1. Defendant Stanley L. Hunewill was identified as a potential water right holder who should be served with process pursuant to the *Case Management Order* (Doc. 108).
2. Defendant Hunewill filed Waiver of Service and Notice of Appearance and Intent to Participate forms in this action. *See Third Report of the United States of America Concerning Status of Service on Certain Persons and Entities* (Doc. 497, No. 189), *Order Concerning Third Report of the United States of America Concerning Status of Service on Certain Persons and Entities* (Doc. 521).
3. In the Suggestion of Death, counsel for Defendant Hunewill reports of Defendant's death on June 9, 2014 but counsel fails to identify Defendant's successor(s) in interest.
4. The *Amended Order Concerning Service Issues Pertaining to Defendants Who Have Been Served*, 5-6 (Doc. 1650) (Service Order) specifies that "[s]ervice of a statement noting the death' means the filing on the record in the applicable subproceeding(s) and service of a statement that identifies the successor(s) to the estate who may be substituted for the decedent." The Service Order also notes that

[s]hould a death be formally noted on the record by service of a statement noting the death that is filed in the appropriate subproceeding(s), the Tribe and United States, in the case of C-125-B defendants, or Mineral County, in the case of C-125-C defendants, or any other party or the decedent's representative and/or successor(s)-in-interest shall move for substitution of the proper successor-in-interest within 90 days of such notice pursuant to Fed. R. Civ. P. 25(a).

Id. at 6 (emphasis added).

5. Presumably the water right previously held by Defendant Hunewill continues to exist and has been passed to another by inheritance and/or intestate transfer. Nevertheless, it is

impossible for the United States or the Court to substitute another for Mr. Hunewell's interest unless and until a successor is identified.

CONCLUSION

For the reasons stated above, unless and until Defendant Hunewell's successor in interest is identified and Defendant Hunewell's successor moves for substitution, the Court should take no action on his request to be dismissed from this action.

Dated: July 20, 2016

Respectfully submitted,

Andrew "Guss" Guarino, Trial Attorney
David L. Negri, Trial Attorney

By /s/ Andrew "Guss" Guarino
Andrew "Guss" Guarino

Attorneys for the United States of America

Certificate of Service

It is hereby certified that service of the foregoing UNITED STATES OF AMERICA'S RESPONSE TO SUGGESTION OF DEATH UPON THE RECORD UNDER FRCP 25(a)(1) was made through the court's electronic filing and notice system (CM/ECF) to all of the registered participants.



Eileen Rutherford
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